

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

FRED LEIGHT, : Case No. C-1-00-853  
Plaintiff, : (Judge Dlott)  
v. :  
AUTOZONE, INC. et al, :  
Defendant. :

**NOTICE TO ERIC JUNG OF CLASS ACTION  
AND PROPOSED SETTLEMENT**

**TO: ALL PERSONS WHO WERE EMPLOYED BY AUTOZONE  
AT STORE 705, 5645 GLENWAY AVENUE, CINCINNATI, OHIO  
AT ANY TIME BETWEEN OCTOBER 17, 1997 AND JUNE 30, 2000,  
WHO WERE PAID ON AN HOURLY BASIS**

**PLEASE READ THIS NOTICE CAREFULLY. IF YOU ARE A MEMBER  
OF THE CLASS DESCRIBED ABOVE, YOUR RIGHTS MAY BE  
AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION.**

Pursuant to an Order of the United States District Court for the Southern District of Ohio, and in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, you, Eric Jung, are hereby notified of the certification of a class action of which you are a member, and of the preliminary approval of a proposed settlement in the case known as *Leicht v. AutoZone, Inc., et al.*, Case No. C-1-00-853, United States District Court for the Southern District of Ohio, Western Division (the "Lawsuit"). A Fairness Hearing concerning the settlement was held on June 6, 2005, at 1:30 p.m. in Room 836 of the United States Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202. However,

you, Eric Jung, have the right to appear and comment at such a hearing, or to appear and comment by writing, on the fairness, adequacy, and reasonableness of the settlement.

### **BACKGROUND**

On October 17, 2000, Plaintiff Fred Leicht filed a Class Action Complaint against AutoZone, alleging that AutoZone violated the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* and Ohio state Wage and Hour laws, that a collective action as to the federal claim was proper, and that class treatment was the preferable means of pursuing damages for himself and all class members pursuant to the state law claim, under Ohio Revised Code Sec. 4111.01 *et seq.* By order dated October 10, 2002, the Court certified the case as a class action. AutoZone has denied any liability in the case. However, Plaintiffs and AutoZone have now agreed that a Settlement providing for the payment of certain funds to Class Members is preferable to the time and expense which would be necessary to continue this litigation.

### **CERTIFICATION OF A CLASS ACTION AND PRELIMINARY APPROVAL OF SETTLEMENT**

By Order entered October 10, 2002, the United States District Court for the Southern District of Ohio, Western Division, certified a class action on behalf of a class consisting of all persons who were employed by AutoZone at Store 705 in Hamilton County, Ohio during the period beginning October 10, 1997, and ending June 30, 2000 whose employee time records were altered and who were paid on an hourly basis.

The Representative Plaintiff and Class Counsel have determined that, rather than continue this litigation, it is in the best interest of Class Members to enter into an

agreement whereby each class member (as defined by the Court and who were paid on an hourly basis) who fills in a Proof of Claim and returns it pursuant to the instructions in that Proof of Claim shall receive a payment in accordance with the terms of the Settlement. AutoZone has denied liability in the case but has determined that settling this case is preferable to continued litigation. Should the Court grant final approval of the proposed settlement, all members who do not opt out and exclude themselves from the Class, as described below, will be bound by the settlement and all other orders and judgments entered by the Court.

#### **SUMMARY OF THE SETTLEMENT TERMS**

The terms and conditions of the proposed settlement are contained in the Agreement of Settlement and Compromise between AutoZone and the Representative Plaintiff (the "Settlement Agreement"), filed with the Court on September 3, 2004. This Notice is intended as a summary only. You may obtain a copy of the entire Settlement Agreement by contacting the Clerk, U.S. Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202.

To resolve this litigation AutoZone has undertaken to create a Fund in the amount of \$13,000 to cover payments to the Class Members. In addition, AutoZone has agreed to pay attorney fees in the amount of \$60,000, the costs of litigation and class notice, and an incentive award for the Class Representative. Persons who file a proper Proof of Claim (attached to this Notice) shall be entitled to a pro rata share of the \$13,000 Fund.

**Only those persons who filled in the Proof of Claim and mailed it by April 1, 2005, will be eligible to receive payment. However, you, Eric Jung, will be eligible to receive payment if you fill in the Proof of Claim and mail it by July 11, 2005.**

### **RECOMMENDATION OF COUNSEL**

Counsel for the Settlement Class has recommended approval by the Court of the Settlement Agreement as fair and reasonable and as necessary to protect the best interests of the class members on the grounds that, among other things, (1) continued prosecution of the lawsuit, or the prosecution of individual suits against AutoZone, through trial and any necessary appeals, will require considerable expense and time and will be accompanied by a degree of risk, difficulty of proof, and uncertain prospects for recovery.

AutoZone has agreed to the terms in the Settlement Agreement in order to avoid further expense, inconvenience, and the distraction of protracted litigation.

### **PROOF OF CLAIM REQUIRED**

If you, Eric Jung, do not exclude yourself from the Class, and if the Court directs that the Settlement be approved, your claim will be included in the Settlement and you will be bound by the Settlement, but you will only receive the funds due to you if you establish your right to those funds by completing and mailing the attached Proof of Claim on or before July 11, 2005.

### **EXCLUSION FROM THE CLASS**

If you wish to be excluded from the Class you must send a letter by first-class mail setting forth your name, your present address, and a statement that you wish to be excluded from the Class, and that letter must be postmarked on or before July 11, 2005 and addressed to:

Kenneth J. Murphy, Clerk  
324 Potter Stewart Courthouse  
100 E. Fifth Street  
Cincinnati, OH 45202

### **RELEASE OF CLAIMS**

Final approval of the Settlement will mean that each individual class member who has not been excluded from the Class forever releases any claims against AutoZone related to alteration of time records up to the date the Settlement Agreement was fully executed.

### **HOW YOUR RIGHTS ARE AFFECTED**

For purposes of this settlement you are represented by Counsel for the Settlement Class. You may hire an individual attorney at your own expense to appear on your behalf for the purpose of commenting on the matters contained in this Notice, but you are not required to hire an attorney in order to appear, comment, or be heard at any subsequent Fairness Hearing or to participate in the Settlement if it is approved. If you are represented separately by your own attorney, any claims by that attorney to a portion of any funds ultimately distributable to you from the Fund will depend upon the terms of your agreement with that attorney, subject to Court approval.

### **ATTORNEY FEES AND EXPENSES**

Upon Final Approval of the Settlement, Counsel for the Settlement Class will make an application to the Court for an award of fees and expenses as compensation for their services, in the amount of \$62,883.36. The amount so awarded will NOT be deducted from the Fund.

### **FAIRNESS HEARING**

A Fairness Hearing was held before Judge Dlott at the U.S. Courthouse, 100 East Fifth Street, Cincinnati, OH 45202, at 1:30 p.m. on June 6, 2005, to determine whether class certification is proper and whether the Settlement Agreement is fair, adequate, and reasonable and should be approved by the Court. At the hearing any class member had the opportunity to appear in person or through counsel and to be heard in support of, or in opposition to, the fairness, reasonableness, and adequacy of the Settlement Agreement and on class certification. If you wish to be heard in support of, or in opposition to, the proposed settlement or certification, you must file with the Court and serve on counsel, no later than 5:00 p.m. on July 11, 2005, a notice of your intention to appear at any subsequently scheduled Fairness Hearing and/or a copy of your written comments or objections. This notice should be sent to all of the following:

Kenneth J. Murphy, Clerk  
324 Potter Stewart Courthouse  
100 E. Fifth Street  
Cincinnati, OH 45202

Randolph H. Freking, Esq.  
Freking & Betz  
215 E. Ninth Street, Fifth Floor  
Cincinnati, OH 45202  
Counsel for the Class

Walter W. Christy, Esq.  
Frilot, Partridge, Kohnke & Clements, L.C.  
3600 Energy Centre  
1100 Poydras Street  
New Orleans, Louisiana 70163  
Counsel for Defendant

Any class member who does not timely file and serve an intention to appear, or written comments or objections, shall be deemed to have waived any and all objections and shall be foreclosed from objecting (by appearance or otherwise) to the proposed settlement. **ANY CLASS MEMBER WHO IS SATISFIED WITH THE PROPOSED SETTLEMENT NEED NOT APPEAR AT THE HEARING OR SUBMIT ANY COMMENTS.**

**FURTHER INFORMATION AVAILABLE**

This Notice is not intended to be, and should not be construed as, a complete statement of the proposed Settlement or class certification. Any questions you may have about the matters addressed by this Notice should not be made to the Court but should instead be directed to the Lead Counsel for the Settlement Class by writing to the following address:

Randolph H. Freking, Esq.  
Freking & Betz  
215 E. Ninth Street  
Fifth Floor  
Cincinnati, OH 45202

Certain of the pleadings and other papers filed in this action are also available for inspection at the office of the Clerk of Court in the U.S. Courthouse, 100 E. Fifth Street, Cincinnati, OH 45202.

By Order of the Honorable Susan J. Dlott,  
Judge of the United States District Court for the  
Southern District of Ohio